

Senate Bill 528

By: Senator Goggans of the 7th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 4 of Title 4 of the Official Code of Georgia Annotated, relating to control of disease in livestock, so as to revise certain provisions relating to deer farming; to provide for regulation of alternative livestock farming; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 4 of Title 4 of the Official Code of Georgia Annotated, relating to control of disease in livestock, is amended by revising Article 5, relating to deer farming, as follows:

"ARTICLE 5

4-4-170.

The purpose of this article is to provide for the production of farmed ~~deer~~ alternative livestock as an agricultural operation and to provide for the importation, production, and control and eradication of disease in farmed ~~deer~~ alternative livestock.

4-4-171.

As used in this article, the term:

~~(2)(1) 'Farmed deer' means fallow deer (Dama dama), axis deer (Axis axis), sika deer (Cervus nippon), red deer and elk (Cervus elaphus), reindeer and caribou (Rangifer tarandus), and hybrids between these farmed deer species~~ 'Alternative livestock' means elk, axis deer, fallow deer, sika deer, red deer, nilgai antelope, addax antelope, black buck antelope, and aoudad raised for the commercial sale of meat and other parts or for the sale of live animals. Those cervids which are indigenous to this state, including white-tailed deer, ~~and those members of the order Artiodactyla which are considered to be inherently dangerous to human beings and are described in subparagraph (a)(1)(F) of Code Section~~

27-5-5 shall be classified as unacceptable species and shall not be included within the definition of farmed deer. ~~Deer that may be under the authority of Title 50, Part 23, Subpart c of the Code of Federal Regulations, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U. ST. 108, TIAS 8249, must meet the requirements set forth in the federal Endangered Species Act of 1973, as amended, 16 U.S.C. Section 1531 et seq.~~ alternative livestock.

(1)(2) 'Deer' 'Alternative livestock farming' means the agricultural operation of raising and production of ~~farmed deer~~ alternative livestock for the commercial production of food and fiber.

4-4-172.

(a) No person shall possess, buy, import, or transport farmed deer alternative livestock or engage in or carry on the business of ~~deer~~ alternative livestock farming without first applying for and obtaining a ~~deer-farming~~ an alternative livestock farming license from the Commissioner of Agriculture. ~~A deer-farming~~ An alternative livestock farming license shall be valid from the date of issuance to March 31 of the following calendar year. ~~A deer-farming~~ An alternative livestock farming license ~~will~~ shall not be issued by the Commissioner to any ~~deer-farming~~ alternative livestock farming operation which has not been inspected and approved by the ~~Department of Natural Resources~~ department, provided that any facility expansion must be reapproved prior to renewal of a ~~deer-farming~~ an alternative livestock farming license.

(b) The license of any ~~deer~~ alternative livestock farm operator violating this article or any rule or regulation adopted by the Commissioner pursuant to this article shall be subject to revocation, cancellation, or suspension following notice and hearing. ~~A deer-farming~~ An alternative livestock farming license of any licensee whose facility does not meet the definition of an agricultural operation shall be revoked, and such license may be revoked if the licensee violates any provision of Title 27, relating to wild animals. Any farmed ~~deer~~ alternative livestock must be disposed of within 45 days of revocation of any ~~deer-farming~~ alternative livestock farming license.

(c) ~~Deer~~ Alternative livestock farm operators shall maintain inventory records of their ~~deer~~ alternative livestock herds, including natural additions, purchased additions, sales, and deaths. Records shall be kept in accordance with specifications of the Commissioner and shall be subject to review by the Commissioner or a representative or employee of the department.

(d) ~~Deer~~ Alternative livestock farm operators shall construct and maintain premises and facilities used in ~~deer~~ alternative livestock farming in accordance with rules established by

the Commissioner and in accordance with subparagraph (A) of paragraph (1) of Code Section 27-5-6, provided that:

(1) The facility must be constructed of such material and of such strength as appropriate for the animals involved;

(2) Housing facilities shall be structurally sound and shall be maintained in good repair to protect and contain the animals;

(3) The facilities shall be designed in such manner, including the inclusion of barriers of sufficient dimensions and conformation, to safeguard both the animals and the public against injury or the transmission of diseases by direct contact; and

(4) Any portion of such facility within which farmed ~~deer~~ alternative livestock are maintained shall be surrounded by a fence with a minimum height of eight feet with the bottom six feet made of woven mesh and constructed of a design, strength, gauge, and mesh approved by the department, ~~after consultation with the Department of Natural Resources~~, and which is sufficient to prevent escape of farmed ~~deer~~ alternative livestock and to prevent white-tailed deer from entering. Supplemental wire to attain a height of eight feet may be smooth, barbed, or woven wire of a gauge and mesh approved by the department with strands no more than six inches apart. All trees and ~~other~~ structures which pose a threat to the integrity of the fencing shall be removed unless fencing is constructed so as to prevent the breach of the fence from the fall of a tree or structure.

(e) It shall be the duty of the Department of Agriculture to inspect an applicant's facilities ~~and to transmit a copy of any application for a deer-farming license to the Department of Natural Resources. The Department of Natural Resources shall inspect the applicant's facilities and shall report to the Department of Agriculture within 30 days of receipt of the application. It also shall be the duty of the Department of Agriculture to transmit a copy of any license issued pursuant to this article to the Department of Natural Resources. It also shall be the duty of the Department of Agriculture to notify the Department of Natural Resources of the revocation, nonrenewal, cancellation, or lapse of any license issued pursuant to this article. All such notifications shall be made in writing and shall be made as promptly as possible, but in no event shall such notification be given more than 72 hours after the event giving rise to the requirement of notice.~~

(f) For purposes other than agricultural operations, farmed ~~deer~~ alternative livestock species must be held under a wild animal license pursuant to Chapter 5 of Title 27. Anyone holding, possessing, importing, or transporting farmed ~~deer~~ alternative livestock without a deer-farming an alternative livestock license or a wild animal license is in violation of Title 27.

1 4-4-173.

2 Health and transportation requirements for any ~~Artiodactyla~~ (even-toed ungulates)
3 alternative livestock must meet ~~the~~ health requirements established by rule or regulation
4 of the Georgia Department of Agriculture. Those animals specifically used for ~~deer~~
5 alternative livestock farming must meet the requirements of the Uniform Methods and
6 Rules of the Code of Federal Regulations for Tuberculosis and Brucellosis in Cervidae.

7 4-4-174.

8 Any farmed ~~deer or cervid~~ alternative livestock which escapes from a licensed ~~deer~~
9 alternative livestock farm shall be subject to the ~~jurisdiction of the Department of Natural~~
10 ~~Resources and may be treated as an escaped wild animal which is subject to the provisions~~
11 ~~of Chapter 5 of Title 27, except that, while such animal is roaming freely outside the~~
12 ~~enclosure of any licensed deer farm, the owner of such farmed deer or cervid shall have 48~~
13 ~~hours from the time the escape is detected to recapture such animal and return it to the~~
14 ~~licensed deer farm~~ same provisions for other livestock running at large or straying under
15 Chapter 3 of this title. As a condition for maintaining a ~~deer-farming~~ an alternative
16 livestock farming license, it shall be the duty of the owner or operator of a licensed ~~deer~~
17 alternative livestock farm to notify the ~~Department of Natural Resources~~ department
18 immediately upon discovery of the escape of a farmed ~~deer~~ alternative livestock. When
19 such notice has been given, no legal hunter shall be held liable for killing or wounding ~~an~~
20 escaped ~~deer~~ alternative livestock.

21 4-4-175.

22 ~~Deer~~ Alternative livestock farm operators shall allow the entry onto the ~~deer~~ alternative
23 livestock farm of representatives of the Department of Agriculture; ~~the Department of~~
24 ~~Natural Resources~~; or other departments or agencies having authority or duties involving
25 farmed ~~deer~~ alternative livestock or wild animals to ensure compliance with applicable
26 federal and state laws.

27 4-4-176.

28 ~~The provisions~~ Commissioner is authorized to promulgate rules and regulations as may be
29 necessary to effectuate the purpose of this article ~~shall not apply to any facility at which~~
30 ~~any animal which would otherwise qualify as a farmed deer is intentionally commingled~~
31 ~~with any species which is classified as and subject to regulation as a wild animal under the~~
32 ~~provisions of Chapter 5 of Title 27.~~ Such rules and regulations shall be designed to ensure
33 the health and safety of wildlife and prevent the spread of animal diseases between wildlife,
34 wild animals, domestic animals, farmed alternative livestock, and people. It shall be the

duty of the Commissioner and the department to ensure the health and safety of farmed alternative livestock, wildlife, wild animals, domestic animals, and people and to prevent, control, and eradicate animal diseases within this state.

4-4-177.

~~The Commissioner of Agriculture is authorized to promulgate rules and regulations as may be necessary to effectuate the purpose of this article. Such rules and regulations shall be promulgated after consultation with the Department of Natural Resources and shall be designed to ensure the health and safety of wildlife and prevent the spread of animal diseases between wildlife, wild animals, domestic animals, farmed deer, and people. It shall be the duty of the Commissioner, the Department of Agriculture, the Board of Natural Resources, the commissioner of natural resources, and the Department of Natural Resources to communicate and consult on matters of mutual concern so as to ensure the health and safety of farmed deer, wildlife, wild animals, domestic animals, and people and to prevent, control, and eradicate animal diseases within this state. In addition to the remedies provided in this article and notwithstanding the existence of any adequate remedy at law, the Commissioner is authorized to apply to the superior court having jurisdiction for an injunction. Such court may, upon hearing and for good cause shown, grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this article or for failing or refusing to comply with the requirements of this article or any rule or regulation adopted by the Commissioner pursuant to this article. An injunction issued under this Code section shall not require a bond.~~

~~4-4-178.~~

~~In addition to the remedies provided in this article and notwithstanding the existence of any adequate remedy at law, the Commissioner is authorized to apply to the superior court for an injunction. Such court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this article or for failing or refusing to comply with the requirements of this article or any rule or regulation adopted by the Commissioner pursuant to this article. An injunction issued under this Code section shall not require a bond.~~

~~4-4-179~~ 4-4-178.

(a) The Commissioner, in order to enforce this article or any orders, rules, or regulations promulgated pursuant to this article, may issue an administrative order imposing a penalty

1 not to exceed \$1,000.00 for each violation whenever the Commissioner, after a hearing,
2 determines that any person has violated any provision of this article or any quarantines,
3 orders, rules, or regulations promulgated pursuant to this article.

4 (b) The initial hearing and any administrative review thereof shall be conducted in
5 accordance with the procedure for contested cases in Chapter 13 of Title 50, the 'Georgia
6 Administrative Procedure Act.' Any person who has exhausted all administrative remedies
7 available and who is aggrieved or adversely affected by any final order or action of the
8 Commissioner shall have the right of judicial review thereof in accordance with Chapter
9 13 of Title 50. All penalties recovered by the Commissioner as provided for in this article
10 shall be paid into the state treasury. The Commissioner may file in the superior court of
11 the county wherein the person under order resides or, if said person is a corporation, in the
12 county wherein the corporation maintains its principal place of business or in the county
13 wherein the violation occurred a certified copy of a final order of the Commissioner
14 unappealed from or of a final order of the department affirmed upon appeal, whereupon
15 said court shall render judgment in accordance therewith and notify the parties. Such
16 judgment shall have the same effect, and all proceedings in relation thereto shall thereafter
17 be the same, as though said judgment had been rendered in an action duly heard and
18 determined by said court. The penalty prescribed in this Code section shall be concurrent,
19 alternative, or cumulative with any and all other civil, criminal, or alternative rights,
20 remedies, forfeitures, or penalties provided, allowed, or available to the Commissioner with
21 respect to any violation of this article and any quarantines, orders, rules, or regulations
22 promulgated pursuant thereto.

23 ~~4-4-180~~ 4-4-179.

24 It shall be unlawful for any person intentionally to release ~~a farmed deer~~ farmed alternative
25 livestock from captivity or to import, transport, sell, transfer, or possess ~~a farmed deer~~
26 farmed alternative livestock in such a manner as to cause its release or escape from
27 captivity. If a person imports, transports, sells, transfers, or possesses ~~a farmed deer~~ farmed
28 alternative livestock in such a manner as to pose a reasonable possibility that such farmed
29 ~~deer~~ alternative livestock may be released accidentally or escape from captivity, the
30 department may revoke the license of such person.

31 ~~4-4-181~~ 4-4-180.

32 Any person violating the provisions of this article shall be guilty of a misdemeanor."

33 SECTION 2.

34 All laws and parts of laws in conflict with this Act are repealed.